

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4959 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

-----  
LUBI ELECTRICALS PVT.LTD.

Versus

GUJARAT INDUSTRIAL DEVELOPMENT CORPORATION

-----  
Appearance:

None present for Petitioner

None present for Respondent

-----  
CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 18/01/97

ORAL JUDGEMENT

1. Perused the Special Civil Application. On last date, when this matter has come up for hearing before this court on 26th December, 1996, it has been agreed by the parties that the issue which is involved in this case will be squarely covered by the decision of this court to be pronounced in the case of P.B. Textiles Pvt. Ltd. vs. G.I.D.C. in Special Civil Application No.5841 of 1985. This Special Civil Application has been allowed by

this court on 16th January, 1997.

2. The petitioner purchased the industrial plots no.62 and 63 situated at G.I.D.C., Industrial Estate, Naroda in a court auction pursuant to the action taken by the Gujarat State Financial Corporation against M/s. Metro Steel Industries Ltd. to recover the dues from the said industry. M/s. Metro Steel Industries was the owner of plots no.62 and 63 at G.I.D.C. Industrial Estate, Naroda. It had obtained loan from Gujarat State Financial Corporation and failed to make the payment thereof within prescribed time. The G.S.F.C. initiated proceedings against the said company under sec.31 and 32 of the State Financial Corporation Act, 1951. The court auction had taken place and the plots together with the factory premises constructed thereon were auctioned in favour of the petitioner. The District Court issued the sale certificate to the petitioner on 26th October, 1982. The petitioner prayed for transfer of the plots aforesaid in its name, to the G.I.D.C., but it was not done. Hence, this Special Civil Application.

3. The reply has been filed by the Corporation and the defence has been taken that unless unearned increments, as per the terms and conditions of the lease on the basis of which the lease was granted in favour of Metro Steel Industries, the predecessor-in-title of the petitioner, are paid, no question does arise for transfer of these plots to the petitioner. The respondent has further come up with a case that the petitioner filed a civil suit for transferring the said plots in its name so that it may not be required to pay unearned increments as per the terms and conditions of the lease. The plea has been taken by the respondent that the petitioner could not have availed of two parallel remedies simultaneously.

4. Though I find sufficient justification in the contention of the respondent that the petitioner could not have availed of two parallel remedies simultaneously for the same cause of relief, but as I have taken a view in the case of P.B. Textiles Pvt. Ltd. vs. G.I.D.C. (supra) that in the case where the industrial plots have been purchased in court auction, the transferee (auction purchaser) are not under a legal obligation to pay the unearned increments to the G.I.D.C., this petition deserves acceptance and thereafter the suit which has been filed by the petitioner will automatically become infructuous.

5. In the case of P.B. Textiles Pvt. Ltd. vs. G.I.D.C. (supra) this court has taken a view that the

condition as contained in the lease deed for payment of unearned increments of transfer of industrial plots cannot be made applicable to the court auction purchasers of the plots, and as such, the ground on which the respondent declined to transfer the plots in question in the name of the petitioner is not sustainable. This matter is squarely covered in favour of the petitioner by the decision of this court in the case of P.B. Textiles Pvt. Ltd. vs. G.I.D.C (supra).

6. In the result, this Special Civil Application succeeds and the same is allowed. The Gujarat Industrial Development Corporation, having its registered office at Fadia Chambers, Ashram Road, Ahmedabad, is directed to transfer the industrial plots no.62 and 63 at G.I.D.C. Industrial Estate, Naroda, Ahmedabad in the name of the petitioner forthwith. The petitioner is hereby directed to get the suit filed by it withdrawn forthwith and compliance of this direction may be reported to this court. Rule is made absolute in the aforesaid terms with no order as to costs.

\*\*\*\*\*

zgs/-